

AMENDED IN ASSEMBLY MAY 3, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1156

Introduced by Assembly Member Eng
(Coauthor: Assembly Member Hall)

February 18, 2011

An act to amend Sections 32261, 32282, 32283, 48204, and 48900 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1156, as amended, Eng. Pupils: bullying.

(1) Existing law establishes the public school system in this state, and, among other things, provides for the establishment of school districts throughout the state and for their provision of instruction at the public elementary and secondary schools they operate and maintain.

Existing law, *the Interagency School Safety Demonstration Act of 1985, among other things, requires school districts and county offices of education to be responsible for the overall development of comprehensive school safety plans for schools operating kindergarten or any of grades 1 to 12, inclusive, and further requires the Department of Justice and the State Department of Education to contract with one or more professional trainers to coordinate statewide workshops for school districts, county offices of education, and schoolsite personnel to assist them in the development of school safety and crisis response plans.*

~~(2) Existing law provides for residency requirements for school attendance at a particular district.~~

This bill, as of July 1, 2012, would require *procedures to prevent bullying to be included in comprehensive school safety plans, thereby*

creating a state-mandated local program by imposing new duties on school districts and county offices of education. The bill also would require the Department of Justice and the State Department of Education to contract to provide the training of schoolsite personnel in the prevention of bullying, as defined in the bill, under this provision to be a component in the development of school safety plans.

(2) Existing law provides for residency requirements for school attendance at a particular district.

This bill, as of July 1, 2012, would provide that a pupil complies with the residency requirements for school attendance in a school district if that pupil's residence is located within the boundaries of another school district, but the pupil has been determined by personnel of that other school district to have been the victim of an act of bullying, as defined, committed by a pupil of that other school district.

(3) Existing law prohibits the suspension, or recommendation for expulsion, of a pupil from school unless the school district superintendent or the school principal determines that the pupil has committed any of various specified acts, including, but not limited to, bullying, as defined to include sexual harassment, hate violence, or harassment, threats, or intimidation.

This bill, as of July 1, 2012, would amend the definition of bullying in this provision by specifying that bullying ~~includes harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying, and further specifying that~~ bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, as defined, including, but not limited to, sexual harassment, hate violence, or harassment, threats, or intimidation, that has the effect or can reasonably be predicted to have the effect of placing the pupil or pupils in reasonable fear of harm to that pupil's or those pupils' person or property, causing a substantially detrimental effect on the pupil's or pupils' physical or mental health, substantially interfering with the pupil's or pupils' academic performance, or substantially interfering with the pupil's or pupils' ability to participate in or benefit from the services, activities, or privileges provided by a school.

(4) The bill would also make various technical and conforming changes.

(5) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) A safe and civil school environment is necessary for pupils
4 to learn and achieve.

5 (b) Bullying causes physical, psychological, and emotional harm
6 to pupils, and interferes with pupils' ability to learn and participate
7 in school activities.

8 (c) Bullying has been linked to other forms of antisocial
9 behavior, such as vandalism, shoplifting, truancy and dropping
10 out of school, fighting, using drugs and alcohol, sexual harassment,
11 and sexual violence.

12 (d) Because of the negative outcomes associated with bullying
13 in schools, pupils, parents, and school personnel should be
14 informed about what behaviors constitute prohibited bullying.

15 (e) If victims of bullying feel unsafe at the schools where they
16 have been victimized, they should be accommodated if they desire
17 to attend another school, even if that school is located in another
18 school district.

19 SEC. 2. *Section 32261 of the Education Code is amended to*
20 *read:*

21 32261. (a) The Legislature hereby recognizes that all pupils
22 enrolled in the state public schools have the inalienable right to
23 attend classes on school campuses that are safe, secure, and
24 peaceful. The Legislature also recognizes that pupils cannot fully
25 benefit from an educational program unless they attend school on
26 a regular basis. In addition, the Legislature further recognizes that

1 school crime, vandalism, truancy, and excessive absenteeism are
2 significant problems on far too many school campuses in the state.

3 (b) The Legislature hereby finds and declares that the
4 establishment of an interagency coordination system is the most
5 efficient and long-lasting means of resolving school and community
6 problems of truancy and crime, including vandalism, drug and
7 alcohol abuse, gang membership, gang violence, and hate crimes.

8 (c) It is the intent of the Legislature in enacting this chapter to
9 support California public schools as they develop their mandated
10 comprehensive safety plans that are the result of a systematic
11 planning process, that include strategies aimed at the prevention
12 of, and education about, potential incidents involving crime and
13 violence on school campuses, and that address the safety concerns
14 of local law enforcement agencies, community leaders, parents,
15 pupils, teachers, administrators, school police, and other school
16 employees interested in the prevention of school crime and
17 violence.

18 (d) It is the intent of the Legislature in enacting this chapter to
19 encourage school districts, county offices of education, law
20 enforcement agencies, and agencies serving youth to develop and
21 implement interagency strategies, in-service training programs,
22 and activities that will improve school attendance and reduce
23 school crime and violence, including vandalism, drug and alcohol
24 abuse, gang membership, gang violence, hate crimes, bullying,
25 including bullying committed personally or by means of an
26 electronic act, teen relationship violence, and discrimination and
27 harassment, including, but not limited to, sexual harassment.

28 (e) It is the intent of the Legislature in enacting this chapter that
29 the School/Law Enforcement Partnership shall not duplicate any
30 existing gang or drug and alcohol abuse program currently provided
31 for schools.

32 (f) As used in this chapter, ~~“bullying” means one or more acts~~
33 ~~by a pupil or group of pupils as defined in Section 48900.2,~~
34 ~~48900.3, or 48900.4 has the same meaning as set forth in~~
35 ~~subdivision (r) of Section 48900.~~

36 (g) As used in this chapter, ~~an “electronic act” means the~~
37 ~~transmission of a communication, including, but not limited to, a~~
38 ~~message, text, sound, or image by means of an electronic device,~~
39 ~~including, but not limited to, a telephone, wireless telephone or~~

~~other wireless communication device, computer, or pager has the same meaning as set forth in subdivision (r) of Section 48900.~~

SEC. 3. Section 32282 of the Education Code is amended to read:

32282. (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(A) Child abuse reporting procedures consistent with Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code.

(B) Disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.). The disaster procedures shall also include, but not be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A district or county office may work with the California Emergency Management Agency and the Seismic Safety Commission to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

1 (IV) A program to ensure that pupils and both the certificated
2 and classified staff are aware of, and properly trained in, the
3 earthquake emergency procedure system.

4 (ii) Establishing a procedure to allow a public agency, including
5 the American Red Cross, to use school buildings, grounds, and
6 equipment for mass care and welfare shelters during disasters or
7 other emergencies affecting the public health and welfare. The
8 district or county office shall cooperate with the public agency in
9 furnishing and maintaining the services as the district or county
10 office may deem necessary to meet the needs of the community.

11 (C) Policies pursuant to subdivision (d) of Section 48915 for
12 pupils who committed an act listed in subdivision (c) of Section
13 48915 and other school-designated serious acts which would lead
14 to suspension, expulsion, or mandatory expulsion recommendations
15 pursuant to Article 1 (commencing with Section 48900) of Chapter
16 6 of Part 27 of *Division 4 of Title 2*.

17 (D) Procedures to notify teachers of dangerous pupils pursuant
18 to Section 49079.

19 (E) A discrimination and harassment policy consistent with the
20 prohibition against discrimination contained in Chapter 2
21 (commencing with Section 200) of Part 1.

22 (F) The provisions of any schoolwide dress code, pursuant to
23 Section 35183, that prohibits pupils from wearing “gang-related
24 apparel,” if the school has adopted that type of a dress code. For
25 those purposes, the comprehensive school safety plan shall define
26 “gang-related apparel.” The definition shall be limited to apparel
27 that, if worn or displayed on a school campus, reasonably could
28 be determined to threaten the health and safety of the school
29 environment. Any schoolwide dress code established pursuant to
30 this section and Section 35183 shall be enforced on the school
31 campus and at any school-sponsored activity by the principal of
32 the school or the person designated by the principal. For the
33 purposes of this paragraph, “gang-related apparel” shall not be
34 considered a protected form of speech pursuant to Section 48950.

35 (G) Procedures for safe ingress and egress of pupils, parents,
36 and school employees to and from school.

37 (H) A safe and orderly environment conducive to learning at
38 the school.

39 (I) The rules and procedures on school discipline adopted
40 pursuant to Sections 35291 and 35291.5.

1 ~~(J) Hate crime reporting procedures pursuant to Chapter 1.2~~
2 ~~(commencing with Section 628) of Title 15 of Part 1 of the Penal~~
3 ~~Code.~~

4 *(J) Procedures to prevent bullying.*

5 (b) It is the intent of the Legislature that schools develop
6 comprehensive school safety plans using existing resources,
7 including the materials and services of the partnership, pursuant
8 to this chapter. It is also the intent of the Legislature that schools
9 use the handbook developed and distributed by the School/Law
10 Enforcement Partnership Program entitled “Safe Schools: A
11 Planning Guide for Action” in conjunction with developing their
12 plan for school safety.

13 (c) Grants to assist schools in implementing their comprehensive
14 school safety plan shall be made available through the partnership
15 as authorized by Section 32285.

16 (d) Each schoolsite council or school safety planning committee
17 in developing and updating a comprehensive school safety plan
18 shall, where practical, consult, cooperate, and coordinate with
19 other schoolsite councils or school safety planning committees.

20 (e) The comprehensive school safety plan may be evaluated and
21 amended, as needed, by the school safety planning committee, but
22 shall be evaluated at least once a year, to ensure that the
23 comprehensive school safety plan is properly implemented. An
24 updated file of all safety-related plans and materials shall be readily
25 available for inspection by the public.

26 (f) The comprehensive school safety plan, as written and updated
27 by the schoolsite council or school safety planning committee,
28 shall be submitted for approval under subdivision (a) of Section
29 32288.

30 ~~SEC. 2.~~

31 *SEC. 4.* Section 32283 of the Education Code is amended to
32 read:

33 32283. The Department of Justice and the State Department
34 of Education, in accordance with Section 32262, shall contract
35 with one or more professional trainers to coordinate statewide
36 workshops for school districts, county offices of education, and
37 schoolsite personnel, and in particular school principals, to assist
38 them in the development of their respective school safety and crisis
39 response plans. ~~Training of schoolsite personnel in the prevention~~
40 ~~of bullying, as defined in subdivision (r) of Section 48900, shall~~

1 ~~be a component in the development of school safety plans under~~
2 ~~this section~~ *response plans, and provide training in the prevention*
3 *of bullying as defined in subdivision (r) of Section 48900.* The
4 Department of Justice and the State Department of Education shall
5 work in cooperation with regard to the workshops coordinated and
6 presented pursuant to the contracts. Implementation of this section
7 shall be contingent upon the availability of funds in the annual
8 Budget Act.

9 ~~SEC. 3.~~

10 *SEC. 5.* Section 48204 of the Education Code, as amended by
11 Section 2 of Chapter 33 of the Statutes of 2007, is amended to
12 read:

13 48204. Notwithstanding Section 48200, a pupil complies with
14 the residency requirements for school attendance in a school
15 district, if he or she is:

16 (a) (1) A pupil placed within the boundaries of that school
17 district in a regularly established licensed children's institution,
18 or a licensed foster home, or a family home pursuant to a
19 commitment or placement under Chapter 2 (commencing with
20 Section 200) of Part 1 of Division 2 of the Welfare and Institutions
21 Code.

22 (2) An agency placing a pupil in the home or institution
23 described in paragraph (1) shall provide evidence to the school
24 that the placement or commitment is pursuant to law.

25 (b) A pupil for whom interdistrict attendance has been approved
26 pursuant to Chapter 5 (commencing with Section 46600) of Part
27 26.

28 (c) A pupil whose residence is located within the boundaries of
29 that school district and whose parent or legal guardian is relieved
30 of responsibility, control, and authority through emancipation.

31 (d) A pupil who lives in the home of a caregiving adult that is
32 located within the boundaries of that school district. Execution of
33 an affidavit under penalty of perjury pursuant to Part 1.5
34 (commencing with Section 6550) of Division 11 of the Family
35 Code by the caregiving adult is a sufficient basis for a
36 determination that the pupil lives in the home of the caregiver,
37 unless the school district determines from actual facts that the pupil
38 is not living in the home of the caregiver.

39 (e) A pupil residing in a state hospital located within the
40 boundaries of that school district.

1 (f) A pupil whose residence is located within the boundaries of
2 another school district, but who has been determined by personnel
3 of that other district to have been the victim of an act of bullying,
4 as defined in subdivision (r) of Section 48900, committed by a
5 pupil of that other district.

6 (g) This section shall become operative on July 1, 2012.

7 ~~SEC. 4.~~

8 *SEC. 6.* Section 48900 of the Education Code is amended to
9 read:

10 48900. A pupil shall not be suspended from school or
11 recommended for expulsion, unless the superintendent or the
12 principal of the school in which the pupil is enrolled determines
13 that the pupil has committed an act as defined pursuant to any of
14 subdivisions (a) to (r), inclusive:

15 (a) (1) Caused, attempted to cause, or threatened to cause
16 physical injury to another person.

17 (2) Willfully used force or violence upon the person of another,
18 except in self-defense.

19 (b) Possessed, sold, or otherwise furnished a firearm, knife,
20 explosive, or other dangerous object, unless, in the case of
21 possession of an object of this type, the pupil had obtained written
22 permission to possess the item from a certificated school employee,
23 which is concurred in by the principal or the designee of the
24 principal.

25 (c) Unlawfully possessed, used, sold, or otherwise furnished,
26 or been under the influence of, a controlled substance listed in
27 Chapter 2 (commencing with Section 11053) of Division 10 of the
28 Health and Safety Code, an alcoholic beverage, or an intoxicant
29 of any kind.

30 (d) Unlawfully offered, arranged, or negotiated to sell a
31 controlled substance listed in Chapter 2 (commencing with Section
32 11053) of Division 10 of the Health and Safety Code, an alcoholic
33 beverage, or an intoxicant of any kind, and either sold, delivered,
34 or otherwise furnished to a person another liquid, substance, or
35 material and represented the liquid, substance, or material as a
36 controlled substance, alcoholic beverage, or intoxicant.

37 (e) Committed or attempted to commit robbery or extortion.

38 (f) Caused or attempted to cause damage to school property or
39 private property.

1 (g) Stolen or attempted to steal school property or private
2 property.

3 (h) Possessed or used tobacco, or products containing tobacco
4 or nicotine products, including, but not limited to, cigarettes, cigars,
5 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
6 packets, and betel. However, this section does not prohibit use or
7 possession by a pupil of his or her own prescription products.

8 (i) Committed an obscene act or engaged in habitual profanity
9 or vulgarity.

10 (j) Unlawfully possessed or unlawfully offered, arranged, or
11 negotiated to sell drug paraphernalia, as defined in Section 11014.5
12 of the Health and Safety Code.

13 (k) Disrupted school activities or otherwise willfully defied the
14 valid authority of supervisors, teachers, administrators, school
15 officials, or other school personnel engaged in the performance of
16 their duties.

17 (l) Knowingly received stolen school property or private
18 property.

19 (m) Possessed an imitation firearm. As used in this section,
20 “imitation firearm” means a replica of a firearm that is so
21 substantially similar in physical properties to an existing firearm
22 as to lead a reasonable person to conclude that the replica is a
23 firearm.

24 (n) Committed or attempted to commit a sexual assault as
25 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
26 Code or committed a sexual battery as defined in Section 243.4
27 of the Penal Code.

28 (o) Harassed, threatened, or intimidated a pupil who is a
29 complaining witness or a witness in a school disciplinary
30 proceeding for the purpose of either preventing that pupil from
31 being a witness or retaliating against that pupil for being a witness,
32 or both.

33 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
34 sold the prescription drug Soma.

35 (q) Engaged in, or attempted to engage in, hazing. For purposes
36 of this subdivision, “hazing” means a method of initiation or
37 preinitiation into a pupil organization or body, whether or not the
38 organization or body is officially recognized by an educational
39 institution, which is likely to cause serious bodily injury or personal
40 degradation or disgrace resulting in physical or mental harm to a

1 former, current, or prospective pupil. For purposes of this
2 subdivision, “hazing” does not include athletic events or
3 school-sanctioned events.

4 ~~(r) (1) Engaged in an act of bullying, including, but not limited~~
5 ~~to, harassment, threats, intimidation, stalking, physical violence,~~
6 ~~sexual harassment, sexual violence, theft, public humiliation,~~
7 ~~destruction of property, or retaliation for asserting or alleging an~~
8 ~~act of bullying.~~

9 ~~(2) As used in this subdivision, “bullying” means any severe or~~
10 ~~(r) Engaged in an act of bullying. For purposes of this~~
11 ~~subdivision:~~

12 ~~(1) “Bullying” means any severe or pervasive physical or verbal~~
13 ~~act or conduct, including communications made in writing or~~
14 ~~electronically by means of an electronic act, and including one or~~
15 ~~more acts committed by a pupil or group of pupils as defined in~~
16 ~~Section 48900.2, 48900.3, or 48900.4, directed toward a pupil or~~
17 ~~pupils that has or can be reasonably predicted to have the effect~~
18 ~~of one or more of the following:~~

19 ~~(A) Placing the pupil or pupils in reasonable fear of harm to~~
20 ~~that pupil’s or those pupils’ person or property.~~

21 ~~(B) Causing a substantially detrimental effect on the pupil’s or~~
22 ~~pupils’ physical or mental health.~~

23 ~~(C) Substantially interfering with the pupil’s or pupils’ academic~~
24 ~~performance.~~

25 ~~(D) Substantially interfering with the pupil’s or pupils’ ability~~
26 ~~to participate in or benefit from the services, activities, or privileges~~
27 ~~provided by a school.~~

28 ~~(2) “Electronic act” means the transmission of a~~
29 ~~communication, including, but not limited to, a message, text,~~
30 ~~sound, or image by means of an electronic device, including, but~~
31 ~~not limited to, a telephone, wireless telephone or other wireless~~
32 ~~communication device, computer, or pager.~~

33 (s) A pupil shall not be suspended or expelled for any of the
34 acts enumerated in this section, unless that act is related to school
35 activity or school attendance occurring within a school under the
36 jurisdiction of the superintendent of the school district or principal
37 or occurring within any other school district. A pupil may be
38 suspended or expelled for acts that are enumerated in this section
39 and related to school activity or attendance that occur at any time,
40 including, but not limited to, any of the following:

1 (1) While on school grounds.

2 (2) While going to or coming from school.

3 (3) During the lunch period whether on or off the campus.

4 (4) During, or while going to or coming from, a school
5 sponsored activity.

6 (t) A pupil who aids or abets, as defined in Section 31 of the
7 Penal Code, the infliction or attempted infliction of physical injury
8 to another person may be subject to suspension, but not expulsion,
9 pursuant to this section, except that a pupil who has been adjudged
10 by a juvenile court to have committed, as an aider and abettor, a
11 crime of physical violence in which the victim suffered great bodily
12 injury or serious bodily injury shall be subject to discipline pursuant
13 to subdivision (a).

14 (u) As used in this section, “school property” includes, but is
15 not limited to, electronic files and databases.

16 (v) A superintendent of the school district or principal may use
17 his or her discretion to provide alternatives to suspension or
18 expulsion, including, but not limited to, counseling and an anger
19 management program, for a pupil subject to discipline under this
20 section.

21 (w) It is the intent of the Legislature that alternatives to
22 suspension or expulsion be imposed against a pupil who is truant,
23 tardy, or otherwise absent from school activities.

24 *SEC. 7. If the Commission on State Mandates determines that*
25 *this act contains costs mandated by the state, reimbursement to*
26 *local agencies and school districts for those costs shall be made*
27 *pursuant to Part 7 (commencing with Section 17500) of Division*
28 *4 of Title 2 of the Government Code.*

29 ~~SEC. 5.~~

30 *SEC. 8.* This act shall become operative on July 1, 2012.